

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

PETERSEN ENERGÍA INVERSORA, S.A.U. and  
PETERSEN ENERGÍA, S.A.U.,

Plaintiffs,

-against-

ARGENTINE REPUBLIC and YPF S.A.,

Defendants.

Case Nos.:

1:15-cv-02739-LAP

1:16-cv-08569-LAP

ETON PARK CAPITAL MANAGEMENT, L.P.,  
ETON PARK MASTER FUND, LTD., and  
ETON PARK FUND, L.P.,

Plaintiffs,

-against-

ARGENTINE REPUBLIC and YPF S.A.,

Defendants.

**PLAINTIFFS' ADDITIONAL RULE 56.1 STATEMENT OF MATERIAL FACTS  
IN SUPPORT OF COMBINED OPPOSITION TO DEFENDANTS' MOTIONS FOR  
SUMMARY JUDGMENT**

KIRKLAND & ELLIS LLP

Paul D. Clement  
George W. Hicks, Jr.  
C. Harker Rhodes, IV

KING & SPALDING LLP

Israel Dahan  
Laura Harris  
Reginald R. Smith

KELLOGG, HANSEN, TODD, FIGEL  
& FREDERICK, P.L.L.C.

Mark C. Hansen  
Derek T. Ho  
Andrew E. Goldsmith

*Counsel for Plaintiffs Petersen Energía Inversora, S.A.U., Petersen Energía, S.A.U.,  
Eton Park Capital Management, L.P., Eton Park Master Fund, Ltd., and Eton Park Fund, L.P.*

Pursuant to Local Civil Rule 56.1(a), Plaintiffs Petersen Energía Inversora, S.A.U. and Petersen Energía, S.A.U. (collectively, “Petersen”), and Eton Park Capital Management, L.P., Eton Park Master Fund, Ltd., and Eton Park Fund, L.P. (collectively, “Eton Park,” and together with Petersen, “Plaintiffs”), respectfully submit the following Statement of Additional Material Facts in support of their Combined Opposition to Defendants’ Motions for Summary Judgment.\*

### **I. Previous Tender Offers for YPF Shares Were Time-Limited**

1. When Repsol made its tender offer for YPF in 1999, that offer was to “purchase the Shares and/or ADS validly tendered and not properly withdrawn prior to the Expiration Date.” Hicks Ex. 152 (YPFPT-HARRIS00002676 at 2786, 2798). The Expiration Date was 54 days after the offer to purchase (April 30, 1999 to June 23, 1999). *See id.*; *see also id.* at 2694, 2760, 2777, 2779, 2781-82, 2785-86, 2789-90, 2793-94, 2797-98.

2. When Petersen made its tender offer for YPF, *see* Pls. 56.1 ¶ 63, it announced: “The Offer may be accepted by holders of Shares during the Acceptance Period subject to the requirements of applicable laws and regulations.” Hicks Ex. 153 (AR00012170 at 171). The Acceptance Period was 21 business days. *See id.*

### **II. Argentina Controlled YPF**

3. Argentina maintained control of YPF from April 16, 2012 through May 2014. Goodman Ex. 36 (Garro Jan. 2022 Report for Pls. ¶ 37 & n.71) (citing *Giustiniani v. YPF SA*, Supreme Ct. of Argentina, 10 Nov. 2015, LL-2016-A-361, TR LALEY AR/JUR/44820/2015); Hicks Ex. 36 (Rovira Jan. 2022 Report for Pls. ¶ 7(a) n.2).

4. Argentina received dividends issued by YPF on November 19, 2012 and August 28, 2013 from the Repsol shares that Argentina occupied. Hicks Ex. 154 (Affidavit of Gustavo

---

\* Unless otherwise stated, all ECF citations refer to the docket in *Petersen Energía Inversora, S.A.U. v. Argentine Republic*, No. 1:15-cv-02739-LAP.

Naveira in Supp. of Pls. Arguments at 49, *Repsol YPF, S.A. v. Republic of Argentina*, No. 1:12-cv-03877-LAP (S.D.N.Y. July 26, 2013), ECF No. 18) (YPF stating that “the exercise of all rights pertaining to the Company’s shares declared to be of public use and subject to expropriation belongs to the Argentine Executive Branch” and that it “paid the dividends pertaining to such shares to the Argentine State”); Hicks Ex. 109 (Settlement Agreement at 2) (Repsol agreeing to settle its claims against Argentina for the receipt of dividends by Argentina during the temporary occupation of its shares).

### **III. The Claims Prosecution Agreement**

5. The Spanish Bankruptcy court approved Petersen’s proposed liquidation plan contemplating the award of financial rights to Petersen’s claim. Giuffra Ex. 68 (PESA Liquidation Plan Approval at 1-2).

6. Prospect was the winning bidder in a court-approved bidding process for the rights to provide financing and litigation management services to the Petersen estate. Argentina 56.1 ¶ 100; Giuffra Ex. 68 (PESA Liquidation Plan Approval at 2); Hicks Ex. 149 (Bogart Tr. 69:2-4) (Prospect “put in a bid in the process that the [Spanish] Bankruptcy Court had set forth”).

7. The subsequent Claims Prosecution Agreement formalizing the funding of Petersen’s claim was “the result of the public execution of an un-challenged, court-approved liquidation plan, conducted in the context of bankruptcy liquidation proceedings.” Hicks Ex. 144 (Tirado Dec. 2021 Report for Pls. ¶ 11); Hicks Ex. 147 (PT\_TIRADO\_000000194 at -203) (Section 8 ruling); Hicks Ex. 133 (PESA Bankr. Ct. Order ¶ 8) (recognizing and summarizing the economic terms of the CPA).

8. The text of the Claims Prosecution Agreement instructs Prospect and Petersen to collaborate on both the direction of the litigation and settlement. *See* Goodman Ex. 70 (CPA

§ 4.3(b), (c), PT\_000008143 at 8151) (listing Prospect's obligations) (“(b) The Capital Provider shall keep the Counterparty reasonably informed of the status of the Claims . . . (c) In recognition of the Insolvency Administration's interest, on behalf of the Counterparty, in the protection of the Counterparty's Entitlement, and the value that its cooperation hereunder may bring to the Capital Provider in the prosecution of the Claims, the Capital Provider shall give reasonable, good faith consideration to any recommendations of the Counterparty regarding the Capital Provider's conduct of the Claims and shall provide a reasoned response thereto”).

Dated: May 26, 2022

Respectfully submitted,

KIRKLAND & ELLIS LLP

By: /s/ Paul D. Clement  
Paul D. Clement  
George W. Hicks, Jr.  
C. Harker Rhodes, IV  
1301 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Phone: (202) 389-5000  
Fax: (202) 389-5200  
Email: paul.clement@kirkland.com  
george.hicks@kirkland.com  
harker.rhodes@kirkland.com

KELLOGG, HANSEN, TODD, FIGEL  
& FREDERICK, P.L.L.C.

Mark C. Hansen  
Derek T. Ho  
Andrew E. Goldsmith  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036  
Phone: (202) 326-7900  
Fax: (202) 326-7999  
Email: mhansen@kellogghansen.com  
dho@kellogghansen.com  
agoldsmith@kellogghansen.com

KING & SPALDING LLP

Israel Dahan  
Laura Harris  
1185 Avenue of the Americas  
New York, NY 10036  
Phone: (212) 556-2114  
Fax: (212) 556-2222  
Email: idahan@kslaw.com  
lharris@kslaw.com

-and-

Reginald R. Smith  
1100 Louisiana Street  
Houston, TX 77002  
Phone: (713) 751-3200  
Fax: (713) 751-3290  
Email: rsmith@kslaw.com

*Counsel for Plaintiffs Petersen Energía Inversora,  
S.A.U., Petersen Energía, S.A.U., Eton Park Capital  
Management, L.P., Eton Park Master Fund, Ltd.,  
and Eton Park Fund, L.P.*